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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,733	10/22/2003	Jeff Jeneve	02WIL1	7772
7590	10/04/2005			
Michael G. Petit P.O. Box 91929 Santa Barbara, CA 93190-1929			EXAMINER HWANG, VICTOR KENNY	
			ART UNIT	PAPER NUMBER
			3764	
DATE MAILED: 10/04/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/691,733

Applicant(s)

JENEVE ET AL.

Examiner

Victor K. Hwang

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-17 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

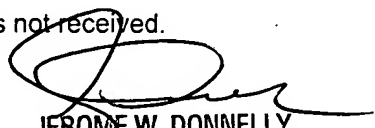
## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
JEROME W. DONNELLY  
PRIMARY EXAMINER

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the resistive force attachment means affixed to the bar at the center plane of the bar (claim 3); the resistive force attachment means affixed to the first and second handgrips (claim 5); the resistive force attachment means operable for attachment to a cable (claim 6); the adjustable braking means operable for resisting or preventing the handgrip from sliding on the bar (claim 8); the tubular sleeves rotatably and concentrically mounted on the first and second handgrips (claim 9); the cable attachment means affixed to the cylindrical member operably for removably attaching one or more cables to the cylindrical member (claim 15); and the braking means operable for resisting or preventing movement of the first and second handgrips in the axial direction (claim 16) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

2. The disclosure is objected to because of the following informalities:
- on page 10, line 10, "trisept" presumably should be changed to --triceps--;
- on page 12, line 12, "21" presumably should be changed to --61--;
- on page 12, line 18, "recessed" presumably should be changed to --recesses--; and
- on page 16, line 13, "mounter" presumably should be changed to --mounted--.
- Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 4, 6, 7 and 10-14 are rejected under 35 U.S.C. 102(b) as being anticipated by *Pearson* (US Pat. 4,836,535). *Pearson* discloses a resistance exercise device comprising an elongate, non-bifurcated, substantially cylindrical bar 30 having first and second ends and a center plane therebetween, the center plane intersecting the bar at a center of gravity thereof.

First and second handgrips 120 are slidably mounted on the bar and disposed equidistant from the center plane. The handgrips have a longitudinal axis 124 and can be slidingly moved on the bar in a direction parallel to the longitudinal axis of the handgrips. A coupling means (Fig. 7) connects the first handgrip to the second handgrip and is operable to maintain the first and second handgrips equidistant from the center plane when the first and second handgrips are moved in a direction parallel to the longitudinal axis of the handgrips.

Weight plates 40 or weight stacks 34 are selectively attached to the bar at opposing ends thereof and disposed equidistant from the center plane. The bar is supported in an elevated position above a horizontal surface by frame 18,20,22 such that the handgrips can slide along the bar. The bar has a weight by itself that can provide a resistive force in opposition to force exerted by an exerciser to elevate the bar. The bar is a cylindrical member having a weight, a length and a longitudinal axis.

5. Claims 12-14, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by *Caruthers* (US Pat. 5,496,244). *Caruthers* discloses a resistance device (Figs. 25-27) comprising an elongate, non-bifurcated, substantially cylindrical member 27 having a weight, a length and a longitudinal axis coextensive with the length defining an axial direction. The cylindrical member has first and second ends and a center plane therebetween wherein the center plane intersects the cylindrical member at a center of gravity thereof. First and second handgrips 10'' are disposed on the cylindrical member equidistant from the center plane and are adapted to provide means enabling an exerciser to grasp the cylindrical member. A sliding means 32 is

operable to enable the first and second handgrips to be moved relative to each other in the axial direction while maintaining the first and second handgrips equidistant from the center plane.

Weights 18A are removably attached to the cylindrical member. The handgrips are prevented from movement in the axial direction by sliding collar 42. The cylindrical member comprises an inner member 27B having the first handgrip affixed to an outer surface thereof and an outer member 27A having the second handgrip affixed to an outer surface thereof. The inner and outer members have substantially the same weight. A portion 29 of the inner member is slidably disposed within a portion 28 of the second member.

### *Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-8 and 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Troutman* (US Pat. 5,152,731) in view of *Brasher* (US Pat. 4,585,229). *Troutman* discloses a resistance exercise device comprising an elongate, non-bifurcated, substantially cylindrical bar 2 having first and second ends and a center plane 38 therebetween, the center plane intersecting the bar at a center of gravity thereof. First and second handgrips 10 are slidably mounted on the bar and can be slidably moved on the bar in a direction parallel to the longitudinal axis of the handgrips. Weight resistance 8 can be selectively attached to opposing ends of the bar. Sliding collars 12 can be adjustably positioned along the bar as a braking means to provide a resistive

force preventing the handgrips from sliding on the bar. The bar itself has weight that can provide a resistive force. The bar itself could be attached to a cable, since there is nothing to preclude it. Cable could be attached to the weight supports 4.

*Troutman* does not disclose a coupling means connecting the first handgrip to the second handgrip operable for maintaining the first and second handgrips equidistant from the center plane when the first and second handgrips are moved in a direction parallel to the longitudinal axis of the handgrips (claim 1); and a resistive force attachment means affixed to the bar at the center plane of the bar (claim 3).

*Brasher* discloses an exercise device comprising first and second handgrips 78,80 that are slidably mounted on an exercise bar and are coupled to maintain the first and second handgrips equidistant from a center plane when the first and second handgrips are moved in a direction perpendicular to the center plane towards the ends of the exercise bar. The coupled movement of the first and second handgrips maintains the handgrips an equal distance from the ends of the bar so that the bar can be balanced over the head of the user with an equal weight on each arm (col. 2, lines 7-12). The handgrips can be locked to the bar so that the handgrips do not move laterally along the bar. Weight resistance is provided by weight plates 20,22 selectively placed on the ends of the bar. An attachment means 92,94 may also be provided at the center plane of the bar for attachment to the cable of a conventional weight and pulley combination.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the handgrips of *Troutman* with a coupling means connecting the first and second handgrips for synchronous movement and a cable attachment, since *Brasher* teaches that connecting the first and second handgrips for coupled movement maintains the

handgrips an equal distance from the ends of the bar so that the bar can be balanced over the head of the user with an equal weight on each arm (col. 2, lines 7-12) and since a cable attachment permits attachment of the exercise bar to the cable of conventional weight and pulley combination for resistance exercise.

8. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Troutman* (US Pat. 5,152,731) in view of *Brasher* (US Pat. 4,585,229) as applied to claim 1 above, and further in view of *Callahan* (US Pat. 3,118,668). *Troutman* in view of *Brasher* discloses the invention as claimed except for a floor supporting means operable for supporting the bar upon a horizontal surface and elevating the bar above the surface such that the first and second handgrips can slide along the bar.

*Callahan* discloses a floor supporting means operable for supporting a barbell upon a horizontal surface and elevating the bar above the surface. The floor supporting means comprises a pair of parallel, spaced standards that support the ends of a barbell so that the barbell can be safely accessed and so that the barbell can be supported such that push-ups can be safely performed.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the exercise device of *Troutman* in view of *Brasher* with the barbell support of *Callahan*, in order to safely support the barbell for push-up exercises.

9. Claims 5, 8 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Pearson* (US Pat. 4,836,535) in view of *Simonson* (US Pat. 5,620,402). *Pearson* has been



discussed above, and such discussion is incorporated herein. *Pearson* discloses the invention as claimed except for a resistive force attachment means affixed to the first and second handgrips (claim 5); and at least one of the handgrips including an adjustable braking means operable for resisting or preventing the handgrip from sliding on the bar (claims 8 and 16).

*Simonson* discloses an exercise device comprising a pair of slidably mounted handgrips 232, wherein a secondary resistance 131 may be provided to the sliding movement of the handgrips in addition to the primary resistance 23 of the exercise device. Springs may also be used to provide resistance lateral movement of the handgrips.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the handgrips of *Pearson* with a resistive force affixed to the handgrips to resist movement of the handgrips, since *Simonson* discloses that resistance to lateral movement of handgrips provides added exercise benefit.

#### ***Allowable Subject Matter***

10. Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art does not disclose or teach a resistance exercise device as claimed wherein the handgrips have tubular sleeves rotatably and concentrically mounted thereon. *Troutman* teaches that the handgrips are specifically not rotatable relative to the bar (col. 2, lines 34-37 and col. 3, lines 32-37).

*Conclusion*

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

*Powers* (US Pat. 4,943,052), *Emick* (US Pat. Pub. 2004/0242385 A1), *Bodmer* (CH 613119 A) and *Dimitriu* (RO 117506 B) disclose exercise device having handgrips that are movable relative to each other and maintain an equidistance from a center of gravity center plane.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor K. Hwang whose telephone number is (571) 272-4976. The examiner can normally be reached Monday through Friday from 7:30 AM to 4:00 PM Eastern time.

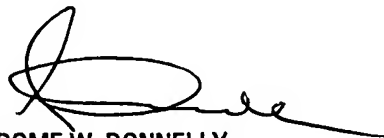
The facsimile number for submitting papers directly to the examiner for informal correspondence is (571) 273-4976. The facsimile number for submitting all formal correspondence is (571) 273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory L. Huson can be reached on (571) 272-4887.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Victor K. Hwang  
September 30, 2005



JEROME W. DONNELLY  
PRIMARY EXAMINER